HONOURABLE SRI JUSTICE A. GOPAL REDDY

AND

HONOURABLE SRI JUSTICE RAJA. ELANGO

A.S. No. 874 OF 2002

BETWEEN

The Land Acquisition Officer & the Revenue Divisional Officer, Jagtial.

...Appellant/Referring Officer

And

Smt. Gaddam Rambai

....Respondents/claimants

HONOURABLE SRI JUSTICE A. GOPAL REDDY

AND

HONOURABLE SRI JUSTICE RAJA. ELANGO

A.S. No. 874 OF 2002

JUDGMENT: (Per Hon'ble Sri Justice A. Gopal Reddy)

The Land Acquisition Officer-cum-Mandal Revenue Divisional Officer, Jagtial, preferred this appeal under Section 54 of the Land Acquisition Act, 1894, questioning the judgment and decree dated 31.12.2001 in OP.No. 38 of 1995, whereby the Reference Court answered the reference made under Section 18 of the Act by enhancing the compensation from Rs.7,500/- per acre to Rs.25,000/- per acre

The land to an extent of Ac. 3.19 guntas cents covered by Sy.Nos. 10 and 22 belonging to the respondent/Claimant situated in Nagaram village of Dharmapuri Mandal in Karimnagar district was acquired by the Government for the purpose of providing house sites to the weaker sections of Nagaram village by issuing draft notification under Section 4(1) of the Act on 15.5.1993. The Land Acquisition Officer, after completing the due and necessary formalities, fixed the market value of the land acquired at Rs.7,500/- per acre. Aggrieved by the same, the claimant sought for reference under Section 18 of the Land Acquisition Act to the competent civil Court, claiming compensation of Rs.2,00,000/- per acre. On such reference, the Reference Court registered the reference as OP.No.38 of 1995.

In order to substantiate her claim for enhancement of compensation, the claimant examined P.Ws. 1 and 2 and marked Ex.A.1. On the other hand, in order to dislodge the claim of the claimants and to establish the market value fixed and compensation awarded by the Land Acquisition Officer as adequate, reasonable and sufficient, R.W.1 was examined and Exs.B.1 to B 10 were marked on his behalf.

The Reference Court, on hearing both sides and perusing the material on record, enhanced and fixed the market value of the acquired land at Rs.25,000/- per acre. Aggrieved by the said enhancement, the present appeal is preferred.

Heard the learned Counsel appearing on either side.

The learned Government Pleader contended that there is absolutely no evidence to support the award of the Civil Court with reference to the fixation of the market value to the lands acquired and that the lower court without appreciating the evidence on record in proper perspective, erroneously fixed the market value at Rs.25,000/- per acre.

On the other hand, the learned Counsel for the respondent/claimant supported the judgment of the Reference Court. He further submitted that there are no grounds to interfere with the judgment of the Court below and hence prayed for dismissal of the appeal.

The Land Acquisition Officer during the course of enquiry collected as many as 22 sale transactions held during 16.5.1990 to 15.6.1993, preceding three years from the date of acquisition. He relied on sale item Nos. 3,4,5,13, 18 to 22 where under the land in Sy.Nos. 64 and 69 was sold at the rate ranging from 6,000/- to Rs.7000/- per acre. Based on the same and also Exs.B.2 to B.10 sale deeds, the Land Acquisition Officer, fixed the market value of the land acquired at Rs.7,500/- per acre.

On the other hand, the claimant deposed that she sold Ac.0.04 guntas of land in the same survey number of the land acquired to one Kola Narsaiah at the rate of Rs.500/- per gunta under Ex.A.1 sale deed dated 8.3.1982;that she used to raise mirchy, turmeric, padday, being irrigated under the tank; that the

acquired land is more fertile, fit for house sites and was situated within the village precincts, and that the acquired land is abutting the main road and is surrounded by residential houses. P.W.2 also supported the evidence of P.W.1. Even the Land Acquisition Officer in his Award proceedings observed that the land acquired was being irrigated through the well and dry crops like maize, green gram etc., are being raised and the said land is situated near to the village limits. However, the Land Acquisition Officer, discarded the sale transaction took place under Ex.A.1 on the ground the same took place three years prior to the 4(1) notification. In our consider view, the same is unsustainable. The LAO considered the sale transactions in which minimum value was shown. It is now fairly well settled that the highest value shown in the sale deeds relied on by the parties can be preferred than the rest of the other for fixation of the market value of the acquired land, unless there are contradict circumstances and reasons, the same cannot be discarded. It is not in dispute that the portion of the land sold under Ex.,A.1 was from the same survey number of the land acquired at the rate of Rs.20,000/- per acre. Therefore, the value mentioned in Ex.A.1 can be taken as best for fixation of the market value of the acquired land by adding escalation in prices for the years passed by till the date of notification. In our considered view, the market value fixed by the Reference Court at Rs.25,000/- per acre is not excessive, and the same is reasonable and based on evidence.

We see no ground to interfere with the judgment

of the Reference Court. Accordingly we dismiss the appeal. No order as to costs.

JUSTICE A. GOPAL REDDY

JUSTICE RAJA ELANGO

Date: 10--06-2010.
Msnr.